

“SEC. 1009. REQUIREMENT FOR REGULATIONS.

“(a) IN GENERAL.—The Committee shall prescribe regulations to carry out this title.

“(b) ELEMENTS.—Regulations prescribed to carry out this title shall—

“(1) provide for the imposition of civil penalties for any violation of this title, including any mitigation agreement entered into, conditions imposed, or order issued pursuant to this title; and

“(2) include specific examples of the types of—

“(A) the transactions that will be considered to be covered transactions; and

“(B) the articles, supply chains, and services that will be considered to be national critical capabilities.

“(c) COORDINATION.—In prescribing regulations to carry out this title, the Committee shall coordinate with the United States Trade Representative, the Under Secretary of Commerce for Industry and Security, and the Committee on Foreign Investment in the United States to avoid duplication of effort.

“SEC. 1010. REQUIREMENTS RELATED TO GOVERNMENT PROCUREMENT.

“(a) IN GENERAL.—Not later than 90 days after the date of the enactment of the United States Innovation and Competition Act of 2021, the Federal Acquisition Regulation shall be revised to require each person that is a prospective contractor for an executive agency to disclose the supply chains the person would use to carry out the contract and the extent to which the person would depend on articles and services imported from foreign countries, including the percentage of such materials and services imported from countries of concern.

“(b) MATERIALITY.—The head of an executive agency shall consider the failure of a person to make the disclosures required by subsection (a) to be material determinants in awarding a contract to that person.

“(c) APPLICABILITY.—The revisions to the Federal Acquisition Regulation required under subsection (a) shall apply with respect to contracts for which solicitations are issued on or after the date that is 90 days after the date of the enactment of the United States Innovation and Competition Act of 2021.

“(d) DEFINITIONS.—In this section:

“(1) EXECUTIVE AGENCY.—The term ‘executive agency’ has the meaning given that term in section 133 of title 41, United States Code.

“(2) FEDERAL ACQUISITION REGULATION.—The term ‘Federal Acquisition Regulation’ means the regulation issued pursuant to section 1303(a)(1) of title 41, United States Code.

“SEC. 1011. MULTILATERAL ENGAGEMENT AND COORDINATION.

“The United States Trade Representative—

“(1) should, in coordination and consultation with relevant Federal agencies, conduct multilateral engagement with the governments of countries that are allies of the United States to secure coordination of protocols and procedures with respect to covered transactions with countries of concern; and

“(2) upon adoption of protocols and procedures described in paragraph (1), shall work with those governments to establish information sharing regimes.

“SEC. 1012. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated such sums as may be necessary to carry out this title, including to provide outreach to industry and persons affected by this title.

“SEC. 1013. RULE OF CONSTRUCTION WITH RESPECT TO FREE AND FAIR COMMERCE.

“Nothing in this title may be construed as prohibiting or limiting the free and fair flow

of commerce outside of the United States that does not pose an unacceptable risk to a national critical capability.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by adding at the end the following:

“TITLE X—NATIONAL CRITICAL CAPABILITIES REVIEWS

“Sec. 1001. Definitions.

“Sec. 1002. Committee on National Critical Capabilities.

“Sec. 1003. Review of covered transactions.

“Sec. 1004. Action by the President.

“Sec. 1005. Factors to be considered.

“Sec. 1006. Supply chain sensitivities.

“Sec. 1007. Identification of additional national critical capabilities.

“Sec. 1008. Reporting requirements.

“Sec. 1009. Requirement for regulations.

“Sec. 1010. Requirements related to government procurement.

“Sec. 1011. Multilateral engagement and coordination.

“Sec. 1012. Authorization of appropriations.

“Sec. 1013. Rule of construction with respect to free and fair commerce.”.

SA 1854. Mr. MANCHIN submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V of division B, add the following:

SEC. 25. ADVANCED ENERGY MANUFACTURING AND RECYCLING GRANT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADVANCED ENERGY PROPERTY.—The term “advanced energy property” means—

(A) property designed to be used to produce energy from the sun, water, wind, geothermal or hydrothermal (as those terms are defined in section 612 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17191)) resources, enhanced geothermal systems (as defined in that section), or other renewable resources;

(B) fuel cells, microturbines, or energy storage systems and components;

(C) electric grid modernization equipment or components;

(D) property designed to capture, remove, use, or sequester carbon oxide emissions;

(E) equipment designed to refine, electrolyze, or blend any fuel, chemical, or product that is—

(i) renewable; or

(ii) low-carbon and low-emission;

(F) property designed to produce energy conservation technologies (including for residential, commercial, and industrial applications);

(G)(i) light-, medium-, or heavy-duty electric or fuel cell vehicles;

(ii) technologies, components, and materials of those vehicles; and

(iii) charging or refueling infrastructure associated with those vehicles;

(H)(i) hybrid vehicles with a gross vehicle weight rating of not less than 14,000 pounds; and

(ii) technologies, components, and materials for those vehicles; and

(I) other advanced energy property designed to reduce greenhouse gas emissions, as may be determined by the Secretary.

(2) COVERED CENSUS TRACT.—The term “covered census tract” means a census tract—

(A) in which, after December 31, 1999, a coal mine had closed;

(B) in which, after December 31, 2009, a coal-fired electricity generating unit had been retired; or

(C) that is immediately adjacent to a census tract described in subparagraph (A) or (B).

(3) ELIGIBLE ENTITY.—The term “eligible entity” means a manufacturing firm—

(A) the gross annual sales of which are less than \$100,000,000;

(B) that has fewer than 500 employees at the plant site of the manufacturing firm; and

(C) the annual energy bills of which total more than \$100,000 but less than \$2,500,000.

(4) MINORITY-OWNED.—The term “minority-owned”, with respect to an eligible entity, means an eligible entity not less than 51 percent of which is owned by 1 or more Black American, Native American, Hispanic American, or Asian American individuals.

(5) PROGRAM.—The term “Program” means the grant program established under subsection (b).

(6) QUALIFYING ADVANCED ENERGY PROJECT.—The term “qualifying advanced energy project” means a project that—

(A)(i) re-equips, expands, or establishes a manufacturing or recycling facility for the production or recycling, as applicable, of advanced energy property; or

(ii) re-equips an industrial or manufacturing facility with equipment designed to reduce the greenhouse gas emissions of that facility substantially below the greenhouse gas emissions under current best practices, as determined by the Secretary, through the installation of—

(I) low- or zero-carbon process heat systems;

(II) carbon capture, transport, utilization, and storage systems;

(III) technology relating to energy efficiency and reduction in waste from industrial processes; or

(IV) any other industrial technology that significantly reduces greenhouse gas emissions, as determined by the Secretary;

(B) has a reasonable expectation of commercial viability, as determined by the Secretary; and

(C) is located in a covered census tract.

(7) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(b) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a program to award grants to eligible entities to carry out qualifying advanced energy projects.

(c) APPLICATIONS.—

(1) IN GENERAL.—Each eligible entity seeking a grant under the Program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the proposed qualifying advanced energy project to be carried out using the grant.

(2) SELECTION CRITERIA.—

(A) PROJECTS.—In selecting eligible entities to receive grants under the Program, the Secretary shall, with respect to the qualifying advanced energy projects proposed by the eligible entities, give higher priority to projects that—

(i) will provide higher net impact in avoiding or reducing anthropogenic emissions of greenhouse gases;

(ii) will result in a higher level of domestic job creation (both direct and indirect) during the lifetime of the project;

(iii) will result in a higher level of job creation in the vicinity of the project, particularly with respect to—

(I) low-income communities (as described in section 45D(e) of the Internal Revenue Code of 1986); and

(II) dislocated workers who were previously employed in manufacturing, coal power plants, or coal mining;

(iv) have higher potential for technological innovation and commercial deployment;

(v) have a lower levelized cost of—

(I) generated or stored energy; or

(II) measured reduction in energy consumption or greenhouse gas emission (based on costs of the full supply chain); and

(vi) have a shorter project time.

(B) **ELIGIBLE ENTITIES.**—In selecting eligible entities to receive grants under the Program, the Secretary shall give priority to eligible entities that are minority-owned.

(d) **PROJECT COMPLETION AND LOCATION; RETURN OF UNOBLIGATED FUNDS.**—

(1) **COMPLETION; RETURN OF UNOBLIGATED FUNDS.**—An eligible entity that receives a grant under the Program shall be required—

(A) to complete the qualifying advanced energy project funded by the grant not later than 3 years after the date of receipt of the grant funds; and

(B) to return to the Secretary any grant funds that remain unobligated at the end of that 3-year period.

(2) **LOCATION.**—If the Secretary determines that an eligible entity awarded a grant under the Program has carried out the applicable qualifying advanced energy project at a location that is materially different from the location specified in the application for the grant, the eligible entity shall be required to return the grant funds to the Secretary.

(e) **TECHNICAL ASSISTANCE.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall provide technical assistance on a selective basis to eligible entities that are seeking a grant under the Program to enhance the impact of the qualifying advanced energy project to be carried out using the grant with respect to the selection criteria described in subsection (c)(2)(A).

(2) **APPLICATIONS.**—An eligible entity desiring technical assistance under paragraph (1) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(3) **FACTORS FOR CONSIDERATION.**—In selecting eligible entities for technical assistance under paragraph (1), the Secretary shall give higher priority to eligible entities that propose a qualifying advanced energy project that has greater potential for enhancement of the impact of the project with respect to the selection criteria described in subsection (c)(2)(A).

(f) **PUBLICATION OF GRANTS.**—The Secretary shall make publicly available the identity of each eligible entity awarded a grant under the Program and the amount of the grant.

(g) **WAGE RATE REQUIREMENTS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, all laborers and mechanics employed by contractors and subcontractors on qualifying advanced energy projects funded by a grant under the Program shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”).

(2) **AUTHORITY.**—With respect to the labor standards specified in paragraph (1), the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

(h) **REPORT.**—Not later than 4 years after the date of enactment of this Act, the Secretary shall—

(1) review the grants awarded under the Program; and

(2) submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing those grants.

(i) **FUNDING.**—There is appropriated to the Secretary, out of amounts in the Treasury not otherwise appropriated, \$150,000,000 to carry out the Program for fiscal year 2022.

SA 1855. Mr. MANCHIN submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 2515 and insert the following:

SEC. 2515. RESTRICTIONS ON NUCLEAR COOPERATION WITH THE PEOPLE'S REPUBLIC OF CHINA.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the document entitled “U.S. Policy Framework on Civil Nuclear Cooperation with China” (PF 2019-03), which was issued on October 11, 2018, places necessary and appropriate restrictions on nuclear cooperation with the People's Republic of China and should, therefore, remain in force.

(b) **REPORTS ON MODIFICATIONS TO RESTRICTIONS.**—

(1) **REQUIREMENT.**—Not later than 60 days before the date on which the Secretary of Energy seeks to modify any restriction on the transfer of United States civil nuclear technology to the People's Republic of China, the Secretary of Energy, with the concurrence of the Secretary of State and after consultation with the Nuclear Regulatory Commission, the Secretary of Commerce, and the Secretary of Defense and review by the Director of National Intelligence, shall submit to the appropriate committees of Congress a report on such modification, including a description of, and explanation for, the modification.

(2) **FORM.**—Each report submitted under paragraph (1) shall be submitted in unclassified form but may include a classified annex.

(c) **REVIEW OF PRIOR NUCLEAR COOPERATION AND ASSOCIATED IMPACTS.**—

(1) **IN GENERAL.**—Not later than 60 days after the date of the enactment of this Act, the Comptroller General of the United States shall initiate—

(A) a review of nuclear cooperation during the 10-year period ending on the date of the enactment of this Act between the United States Government and the People's Republic of China, including the role of the Department of State in facilitating such cooperation; and

(B) assessing the implications of the cooperation described in subparagraph (A) on the national security of the United States.

(2) **ELEMENTS.**—In conducting the review and assessment under paragraph (1), the Comptroller General shall examine all nuclear cooperation activities between the United States Government and the People's Republic of China during the 10-year period ending on the date of the enactment of this Act, including—

(A) all trips relating to nuclear cooperation taken by officials of the United States Government to the People's Republic of China;

(B) all exchanges of goods, services, data, or information between officials of the United States Government and the Government of the People's Republic of China or any entity owned or controlled by that Government or organized under the laws of the People's Republic of China;

(C) all instances in which officials of the United States Government hosted officials from, or significantly tied to, the Government of the People's Republic of China or any entity described in subparagraph (B).

(3) **DEADLINE AND REPORT.**—Not later than 2 years after Comptroller General initiates the review and assessment under paragraph (1), the Comptroller General shall—

(A) complete the review and assessment; and

(B) submit to the appropriate committees of Congress a report containing the results of the review and assessment, which shall be unclassified but, if necessary, may include a classified annex.

(4) **PUBLICATION.**—Not later than 60 days after the date on which the Comptroller General submits the report required by paragraph (3), the Comptroller General shall make the report publicly available in an easily accessible electronic format, with appropriate redactions for information that, in the determination of the Secretary of Energy, would be damaging to the national security of the United States if disclosed.

(d) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to prohibit—

(1) United States commercial activities that are consistent with the laws and regulations of the United States; or

(2) limited diplomatic engagement or dialogue—

(A) including regarding protection of the intellectual property and trade secrets of United States persons; and

(B) except for any diplomatic engagement or dialogue relating to or aimed at facilitating the transfer of nuclear technology.

(e) **DEFINITIONS.**—In this section:

(1) **APPROPRIATE COMMITTEES OF CONGRESS.**—The term “appropriate committees of Congress” means—

(A) the Committee on Energy and Natural Resources and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Energy and Commerce and the Committee on Foreign Affairs of the House of Representatives.

(2) **NUCLEAR COOPERATION.**—The term “nuclear cooperation” means cooperation with respect to nuclear activities, including the development, use, or control of atomic energy, including any activities involving the processing or utilization of source material, byproduct material, or special nuclear material (as those terms are defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014)).

(3) **NUCLEAR COOPERATION ACTIVITIES.**—The term “nuclear cooperation activities” means activities relating to nuclear cooperation.

(4) **RESTRICTION ON THE TRANSFER OF UNITED STATES CIVIL NUCLEAR TECHNOLOGY TO THE PEOPLE'S REPUBLIC OF CHINA.**—The term “restriction on the transfer of United States civil nuclear technology to the People's Republic of China” includes the 2018 United States Policy Framework on Civil Nuclear Cooperation with China of the Department of Energy.

SA 1856. Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish